



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

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Republicans on the Record

**Senator Kyl Describes Stimulative Effect of
Permanent Death Tax Repeal**

The following excerpts are from remarks made by Senator Jon Kyl (R-AZ) on the Senate floor on February 5, 2002, as the Senate was debating the economic stimulus/tax bill whose passage was urged by President Bush. In these remarks, Senator Kyl describes how permanent repeal of the death tax would provide a multi-billion-dollar stimulus to the economy. He was denied the opportunity to have his amendment voted upon when Majority Leader Daschle on February 6 pulled the bill from further consideration.

As my colleagues will remember, of course, the repeal of the death tax was part of the tax package that was passed earlier in the year, but because of the unique procedures of the Senate and the rules under which we operate, we could only look to a 10-year period, as a result of which, perversely, we phase down the death tax and end up repealing it in the ninth year, so it is only effective for one year before the whole thing sunsets and we go right back to the current situation with respect to the application of the death tax.

I do not think most Americans realize that is what has happened, but people who have to plan for their estates do realize it has happened. This is why a permanent repeal of the death tax now would be so helpful as a stimulus to the economy because all of the estate tax planning, the insurance, and all the other activities people have to do to provide against the possibility of paying the death tax must continue, as it has in the last many years, with the uncertainty of knowing whether or not, if ever, it is going to be permanently repealed. . . .

It is time for us to complete the job we began and see to it that the repeal of the death tax is, in fact, permanent and, therefore, meaningful. Let me note some of the uncertainty that the lack of total repeal causes our family businesses, our farms, and individuals. As I said, the business owners are going to continue to have to do the estate planning that is costly, cumbersome, and time consuming. If we repeal permanently the death tax, then these resources can be reinvested directly into these businesses, thus creating new job opportunities and providing a much needed boost to local economies. . . .

The amendment I have offered will . . . will repeal the death tax forever so that our children and grandchildren will not have to worry about it or plan to have to pay for it.

Actually, last year's tax legislation has had the perverse result that more planning is necessary to deal with the death tax than currently is the case. Accountants, lawyers, and insurance companies are having a field day, frankly, with the uncertainty that is encapsulated in the current state of the death tax legislation.

More planning is needed now because nobody knows for sure if and when it will ever be fully repealed. The sunset provision adds to the complexity of future death tax planning, increasing wasteful costs that are an unproductive drag on our economy. Until permanent repeal is certain, family businesses, farms, and ranches must continue to pay the high cost of life insurance policies, death tax planners, and tax attorneys. These expenses total more than \$12 billion a year according to CONSAD Research Corporation in a study, "The Federal Estate Tax: An Analysis of Three Prominent Issues." That is money that could be saved, could be reinvested in these businesses to create the kinds of job opportunities the President is talking about in urging us to move on with an economic stimulus and job creation package.

Clearly, burying the death tax will enable family businesses, farms, and ranches to begin investing those billions and start providing more stimulus. A more efficient utilization of these resources will result in an immediate stimulus for the economy. More workers will be hired, more capital assets purchased, and more productive goods produced if we eliminate the confusion over the death tax's repeal.

I think we all understand why we repealed the death tax in the first instance. In addition to the fact that a huge amount of money is spent on estate tax planning, studies indicate we spend about the same amount each year on the estate tax planning as is paid in estate taxes altogether. So it is really a double taxation. We are paying an amount of money to deal with the eventuality of paying an estate tax, and that is paid by a lot of people who do not end up paying the tax but end up having to pay the expenses of dealing with the existence of a death tax, and then an equal amount of money is spent in the estate tax itself.

In 2009, families, frankly, who are grieving their lost ones will be faced with a potentially high 45-percent death tax rate. Fortunately, they are going to be able to utilize a \$3.5 million death tax exemption which was enacted into law last year, but in 2010 families grieving for lost ones will avoid the death tax entirely. . . Then in 2011, families grieving their lost ones will feel the wrath of a resurrected death tax returned to its 2001 rate potency. Rates will be as high as 60 percent with a paltry \$675,000 death tax exemption. That is the way our repeal, at midpoint of last year, worked.

So it is a very unfair and arbitrary treatment for the death of family members, as well as, as I said before, creating perverse economic incentives. One can only imagine the extremes to which a family will go to keep fatally ill family members alive in 2009. Nobody wants to predict or argue

for anyone to die in any particular year, and that is exactly the perverse nature of the code that we have created now. Unless one dies in the year 2010, they have a big problem. And for heaven's sake, do not wait to die until the year 2011. Now what kind of tax policy is that, where we say if one dies in the year 2010 they get full benefits of repeal but if they hang on to life and die a year later they are right back to where they were a year ago with a 60-percent tax rate and an exemption that does not cover most of the family farmers and businesses that we are talking about. That is horrible moral policy. It is horrible economic policy. . . .

Of course that is not what we intended when we repealed the tax. It is not what we intended when a bipartisan majority voted on that repeal and passed it. We really wanted it to be forever, but again it was the rules of the Senate that limited us to a 10-year program. So the best solution would be to finish the job and permanently repeal the death tax effective January 1, 2002. By making the tax repeal permanent in 2010, Congress can keep the promise it made last year. I think this is the only moral way we can respond to this very immoral tax.

. . . The repeal of the death tax and the passage of the tax bill was a successful bipartisan effort. So I think it is important the majority of us who approved that tax package, including the death tax provisions, be given an opportunity to vote up-or-down on this amendment, which finishes the job we started, and enable us to vote to repeal the death tax permanently.

If we cannot get that kind of a vote, then all we are doing is hiding from the American people our views with respect to this issue and allow a lot of people to say, oh, sure, yes, I voted for repealing the death tax knowing full well that it was not an effective appeal because it only existed for one year.

. . . If my colleagues do not want to make it permanent, then stand up and say so and let everybody know exactly where they stand. I think the majority of us are going to want to finish the job we started, make this tax cut permanent, allow the people who otherwise would have to spend \$12 billion a year or more on estate planning to put that money into more productive enterprises, to create jobs and help us get out of the economic doldrums our country is in today.

It is good policy for the economy but, more importantly, it is good policy for small businesses, farms, and the American people.

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